HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.15079 OF 2005

DATED: 29.9.2005

Between:

M. Raghuramaiah and others

… Petitioners

and

Bharat Sanchar Nigam Limited,

(A Government of India Enterprise),

Office of the C.G.M., Telecom,

BSNL, A.P. Circle,

Hyderabad and others.

… Respondents

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W.P.NO.15079 OF 2005

ORDER:

The petitioners are working as Telecom Mechanics in Mancherial, Adilabad District. By the proceedings dated 4.6.2005, about 34 Telecom Mechanics, working at several units of the 1st respondent-Corporation, were transferred to other units. Aggrieved thereby, the petitioners filed a Writ Petition i.e., W.P.No.13189 of 2005, along with two other similarly placed Telecom Mechanics, contending that these transfers were in violation of the transfer policy guidelines issued by the 1st respondent. During the course of the hearing of the said writ petition, the petitioners had also made representations to re-consider their transfers. This court, by the judgment dated 24.6.2005, disposed of the writ petition enabling the petitioners to make a representation of their grievances to the 2nd respondent and observing that on such representations, the 2nd respondent shall consider those representations and dispose of the same expeditiously, and in any case, within the time fixed by this court, and pending disposal of the representations, status-quo as regards the transfer of the petitioners shall be maintained.

The petitioners made their representations as per the liberty granted by this court in the judgment above. These representations were considered and the 3rd respondent-Divisional Engineer (Admn), by the proceedings dated 4.7.2005, rejected the petitioners' representations recording that the initial orders of transfer passed in respect of the petitioners were, in accordance with the guidelines issued by the circle office, and there are no violations or deviations.

As a consequence of the order, the petitioners now will have to move to the stations, to which they are posted, pursuant to the transfer orders dated 4.6.2005. With a view to resist such transfers, the writ petition is filed contending that their transfers are in violation of the transfer policy guidelines and the rejection of their representations by the 3rd respondent is illegal.

Smt. Jyothi Eswar Gogineni, learned counsel for the petitioners, would urge that the guidelines regarding transfers have been issued by the 1st respondent on 26.5.2005 in a Circular, and Clause 3 of the General Conditions/Guidelines in the said Circular spells out that officials, who had earlier worked at rural areas for a period not less than 2 years and transferred from rural areas to other stations, may now be exempted even if they are juniors in the station seniority list for sending as substitutes and such officials are liable for transfer in the next cycle, after completion of transfer of all officials in the station. In so far as the petitioners are concerned, in view of this guideline, the petitioners ought not to be disturbed now, and transfer of other officials in the station ought to be first done before identifying the petitioners for movement orders, is the sum and substance of the petitioners' contention.

The guidelines, reliance on which is placed by the petitioners for resisting the orders of transfer, are not statutory instruments. It is a working arrangement and a guideline issued by the 1st respondent for structuring the discretion of the other respondents in identifying officers for transfer. Such administrative instructions or guidelines, particularly, in the area of transfer of an employee from one station to another, do not have an enforceable disposition and cannot be enforced, under Art.226 of the Constitution of India. If the officials lower down in the hierarchy violate those guidelines, it is open to an employee to make a representation to the corporate office or the higher levels of the hierarchy, but not seek Mandamus for enforcing what are essentially and merely guidelines. This position in law is well established.

On the above analysis, there are no merits in the writ petition. Therefore, the writ petition is dismissed. No order as to costs.

GODA RAGHURAM, J

Date: 29.9.2005

CVM